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10 Attorneys for Plaintiffs  
DENNIS MONTGOMERY and  
11 the MONTGOMERY FAMILY TRUST

12 **UNITED STATES DISTRICT COURT**

13 **DISTRICT OF NEVADA**

14 DENNIS MONTGOMERY and the ) Case No. 3:06-CV-00056-PMP-VPC  
MONTGOMERY FAMILY TRUST, ) BASE FILE  
15 Plaintiffs, )  
vs. ) (Consolidated with Case No. 3:06-CV-  
16 ETREPPID TECHNOLOGIES, LLC, WARREN ) 00145-PMP-VPC)  
TREPP, and the UNITED STATES )  
DEPARTMENT OF DEFENSE, )  
19 Defendants. )  
20 )  
21 AND RELATED CASES. )  
22 )

**EMERGENCY REQUEST BY  
MONTGOMERY PARTIES FOR  
STATUS CONFERENCE TO ADDRESS  
THE MONTGOMERY PARTIES'  
COMPLIANCE WITH THE COURT'S  
MAY 7, 2008 ORDER**

1 Plaintiffs Dennis Montgomery and the Montgomery Family Trust (jointly, the  
2 "Montgomery Parties") respectfully request that the Court schedule a telephonic status conference  
3 on May 15, 2008 at 1:30 p.m. to address logistical difficulties that the Montgomery Parties are  
4 encountering in attempting to comply with this Court's May 7, 2008 Order requiring the  
5 Montgomery Parties to produce by May 19, 2008, among other things: "Documents relating to  
6 eTreppid's technology, including white papers, power point presentations, marketing documents,  
7 and correspondence with potential customers." [May 7, 2008 Order (Docket # 582) at 6.] As  
8 explained below, the universe of documents that fall within this description could comprise 1.5  
9 million pages of paper. The Montgomery Parties have contacted counsel for the Government and  
10 eTreppid Technologies, LLC ("eTreppid") and understand that they are amenable to, and available  
11 for, a telephonic conference with the Court at this time.  
12

13 For purposes of responding to the May 7 2008 Order in good faith, the Montgomery Parties  
14 interpret "eTreppid's technology" to refer not only to the technology that the Montgomery Parties  
15 contributed to eTreppid under the Contribution Agreement at issue in this action, but all technology  
16 that eTreppid used to perform work for any agency of the United States Government (the  
17 "Government") as to which eTreppid is claiming ownership. As, the record in this action reflects,  
18 the Montgomery Parties contend that technology in the latter category is not owned by eTreppid  
19 but is, instead, owned by the Montgomery Parties. For purposes of complying with this Court's  
20 May 7, 2008 Order in good faith, however, the Montgomery Parties are interpreting the terms  
21 "eTreppid's technology" to include all technology used by eTreppid irrespective of the issue of  
22 ownership.  
23

25 Montgomery has hundreds of thousands of files that could reasonably be characterized as  
26 "Documents relating to eTreppid's technology" under the May 7, 2008 Order (the "Technology  
27 Data"). The Technology Data—which consists of files in multiple different formats, including, but  
28

1 not limited, “.pdf,” .doc,” “.xls,” “.rtf,” “.txt,” “.bmp,” “.jpg,” “.ppt,” and “.wk3”—is estimated to  
2 consist of 350 gigabytes of information. To illustrate the magnitude of this data, printing all of the  
3 files comprising the Technology Data would produce at least 1.5 million pages of paper. Nearly  
4 every file that constitutes Backup Data could be deemed a document “relating to eTreppid’s  
5 technology” under the Court’s May 7, 2008 Order.  
6

7 A substantial percentage, i.e., sixty to eighty, of the Technology Data consists of files that  
8 the Montgomery Parties reasonably believe could fall within the provision of the U.S. Protective  
9 Order (Docket #253) and/or Non-Disclosure Agreements executed by Dennis Montgomery  
10 (“Montgomery”) in connection with work he performed for the Government (the “Protected Data”).  
11

12 Montgomery, on his own, is physically incapable of segregating the Protected Data from  
13 other Technology Data by May 19, 2008. The files are not organized in a manner which enables  
14 Montgomery to be able to identify and segregate Protected Data from Technology Data with  
15 absolute certainty and confidence without actually looking at each file.  
16

17 In communications with the Government, the Montgomery Parties have proposed to give all  
18 of the Technology Data to the Government and let the Government identify the Protected Data.  
19 Montgomery would then produce to eTreppid all Technology Data not designated as Protected  
20 Data by the Government. The Government is not amenable to this approach. The Government  
21 desires that the Montgomery Parties undertake an initial effort to exclude from the Technology  
22 Data any files that do not contain Protected Data and provide only that pre-screened data to the  
23 Government.  
24

25 Under the Government-imposed limitations as to what Montgomery can and cannot  
26 turnover to his counsel for their review, Montgomery is the only individual who can make a  
27 judgment call as to what files within the Technology Data are Protected Data. Given the  
28 magnitude of the Technology Data it is not feasible for one person to do what the Government  
29

1 desires. To be assured that no Protected Data is contained in that portion of the Technology Data  
2 that is produced to eTreppid, Montgomery would have to individually look at hundreds of  
3 thousands of files spanning more than a four-year period. Montgomery is incapable of  
4 accomplishing this by May 19, 2008. Indeed, the Montgomery Parties respectfully submit that it is  
5 unduly burdensome for Montgomery to have to do this single-handedly regardless of the deadline.  
6

7 The Montgomery Parties respectfully request that the Court schedule a telephonic status  
8 conference at 1:30 p.m. on Thursday, May 15, 2008 to enable the Montgomery Parties, eTreppid  
9 and the Government to address the logistical difficulties that the Montgomery Parties are  
10 experiencing in attempt to comply with the Court's May 7, 2008 Order.

11  
12 Dated: May 14, 2008

Respectfully submitted,

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14 LINER YANKELEVITZ  
SUNSHINE & REGENSTREIF LLP

15  
16 By: \_\_\_\_\_ /s/  
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Tuneen E. Chisolm  
17 Attorneys for DENNIS MONTGOMERY,  
the MONTGOMERY FAMILY TRUST,  
EDRA BLIXETH, AND OPSPRING LLC  
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Law Offices Of Liner Yankelevitz Sunshine & Regenstreif LLP, and that on May 9, 2008, I caused to be served the within document described as **EMERGENCY REQUEST BY MONTGOMERY PARTIES FOR STATUS CONFERENCE TO ADDRESS THE MONTGOMERY PARTIES' COMPLIANCE WITH THE COURT'S MAY 7, 2008 ORDER** on the interested parties in this action as stated below:

5	J. Stephen Peek, Esq. Jerry M. Snyder, Esq. Hale Lane Peek Dennison and Howard 5441 Kietzke Lane, SecondFloor 7 Reno, Nevada 89511 (775) 327-3000; 786-6179 - FAX 8 <a href="mailto:speek@halelane.com">speek@halelane.com</a> ; <a href="mailto:jsnyder@halelane.com">jsnyder@halelane.com</a> 9 Attorneys for Etreppid and Warren Trepp	Carlotta P. Wells, Sr. Trial Counsel U.S. Dept. of Justice Fed. Programs Branch Civil Division, Room 7150 20 Massachusetts Avenue, NW Post Office Box 883 Washington, D.C. 20044 (202) 514-4522; 616-8470 - FAX E-mail: <a href="mailto:Carlotta.wells@usdoj.gov">Carlotta.wells@usdoj.gov</a> 10 Attorneys for Department of Defense
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19	Brian Park, Esq. Douglas Stewart, Esq. Nicole Trotta, Esq. Robert Crowley, Esq. Dorsey & Whitney LLP 1420 Fifth Avenue, Suite 3400 Seattle, Washington 98101 Tel: (206) 903-8711 Fax: (206) 903-8820 <a href="mailto:park.brian@dorsey.com">park.brian@dorsey.com</a> <a href="mailto:stewart.douglas@dorsey.com">stewart.douglas@dorsey.com</a> <a href="mailto:trotta.nicole@dorsey.com">trotta.nicole@dorsey.com</a> <a href="mailto:crowley.robert@dorsey.com">crowley.robert@dorsey.com</a> 27 Attorneys for Atiego LLC	Michael J. Flynn, Esq. One Center Plaza, Suite 240 Boston, Massachusetts 02108
27	<input checked="" type="checkbox"/> [ELECTRONIC] By filing the document(s) electronically with the U.S. District Court and therefore the court's computer system has electronically	Bridget Robb Peck, Esq. Lewis and roca LLP 50 West Liberty Street, Suite 410 Reno, Nevada 89501 Tel: (775) 823-2900 Fax: (775) 823-2929 <a href="mailto:bpeck@lrlaw.com">bpeck@lrlaw.com</a> Attorneys for Atiego LLC

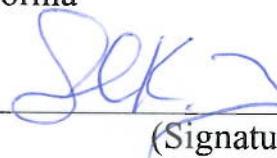
1 delivered a copy of the foregoing document(s) to the persons listed above at  
2 their respective email address.

3  [Federal] I declare that I am employed in the offices of a member of the  
4 State Bar of this Court at whose direction the service was made. I declare  
under penalty of perjury under the laws of the United States of America that  
the above is true and correct.

5 I declare under penalty of perjury under the laws of the State of California and  
6 the United States of America that the foregoing is true and correct.

7 Executed on May 14, 2008, at Los Angeles, California

8 \_\_\_\_\_  
9 Sklar K. Toy  
(Type or print name)

  
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(Signature)

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